IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

WEDNESDAY, THE TWENTY THIRD DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

and
THE HON'BLE SRI JUSTICE B.SESHASAYANA REDDY

WRIT APPEAL No. 241 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 23/12/2004 in WPMP No.31317/2004 in WP No. 23890 OF 2004 on the file of the High Court.)

Between:

1. M/s Sethurama Builders & Engineers Pvt. Ltd, rep. by its Director A. S. Gopalakrishna,
Registered Office: 6-1-117, Padmarao Nagar, Secunderabad - 500 025.
2. A. S. Gopalakrishna, S/o A. Sethurao,
Residing at 6-1-117, Padmarao Nagar, Secunderabad.

..... APPELLANTS

AND

1. The Union of India, rep. by its Secretary,
Ministry of Law, Justice & Company Affairs, Room No. 502, A Wing, Shastri Bhavan, Rajendra Prasad Road,New Delhi.
2. The Registrar of Companies, Andhra Pradesh, II Floor, Kendriya Sada, Sultan Bazar, Koti,
Hyderabad - 500 015.

.....RESPONDENTS.

Counsel for the Appellants: Mr. R.V.SUBBA RAO

Counsel for the Respondents: Mr. KANTHI.NARAHARI

The Court at the stage of admission made the following :

ORAL JUDGMENT:

(per Honourable Sri Devinder Gupta, the Chief Justice)

Learned Single Judge while admitting the writ petition dismissed the application for interim relief on the ground that no ground is made out to stay further proceedings in C.C. Nos. 70/2004 and 102 of 2004 in the Court of the Special Judge for Economic Offences, Hyderabad initiated against the writ petitioner-appellants.

Counter-affidavit has not yet been filed by the respondents and at the very first stage, rule was issued in the Writ Petition, but, interim order was not granted. The very fact that the learned Single Judge found it to be a fit case of taking writ petition for final hearing suggests that there is a prima facie case in favour of the petitioner-appellants. Therefore, in normal circumstances, learned Single Judge ought to have granted the interim relief of staying the proceedings in C.C.Nos. 70 and 102 of 2004 till application for vacating stay was moved by the respondents or counter-affidavit was filed by the respondents and declining the interim order would amount to making the entire writ petition infructuous. Accordingly, we allow the Writ Appeal, set aside the impugned order and direct that till reply/counter is filed by the respondents, further proceedings in C.C.Nos. 70 and 102 of 2004 pending in the Court of the Special Judge for Economic Offences, Hyderabad, initiated against the writ petitioner-appellants shall remain stayed. The writ petition itself will be posted for hearing after Summer Vacation of 2005.

No costs.

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DEVINDER GUPTA, C.J.

23.2.2005.

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B.SESHASAYANA REDDY, J.

VR

NOTE:

Issue cc by tomorrow.

(BO)

To

1. The Secretary to Government of India,
Ministry of Law, Justice & Company Affairs, Room No. 502, A Wing, Shastri Bhavan, Rajendra Prasad Road, New Delhi.
2. The Registrar of Companies, Andhra Pradesh, II Floor, Kendriya Sada, Sultan Bazar, Koti,
Hyderabad - 500 015.

3. The Section Officer, Writ Posting Section, High Court of A.P., Hyderabad.

4. 2 CD copies

5. One copy to the Section Officer, Writ Filing Section, High Court of A.P., Hyderabad.

*Form-NIC-OGS/WA {**AVLR**}*